

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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FELIX GONZALEZ,

Plaintiff,

-against-

BAGEL ON 7TH INC. d/b/a/ BAGEL
MAVEN CAFÉ, JAMES PARK, CHU TO
YOON, and SOOJA YOON, jointly and
severally,

Defendants.
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Index No.: 13 CV 7268

ANSWER

Defendants Bagel on 7th Inc. d/b/a/ Bagel Maven Café, James Park, Chu To Yoon, and Sooja Yoon, by and through its undersigned counsel, as and for their Answer to the Complaint of plaintiff, alleges upon information and belief as follows:

1. Denies the allegations set forth in paragraphs 1 and 2, inclusive, of the Complaint, except admits that plaintiff purports to allege as set forth, and otherwise respectfully refers questions of law to the Court.

AS TO JURISDICTION AND VENUE

2. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraphs 3 through 5, inclusive of the Complaint, except admits that plaintiff purports jurisdiction as alleged, and otherwise respectfully refers questions of law to the Court.

AS TO THE PARTIES

3. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph 6 of the Complaint.

4. Denies the allegations in paragraph 7 of the Complaint, accepts avers that Bagel on 7th, Inc. is organized and existing under the laws of the State of New York, with a principal place of business in New York, New York.

5. Admits the allegations contained in paragraphs 8 through 10, inclusive of the Complaint.

AS TO THE STATEMENT OF FACTS

6. Denies the allegations contained in paragraphs 11 through 15, inclusive of the Complaint.

7. Denies the allegations contained in paragraphs 16 through 22 inclusive, of the Complaint, except admits that plaintiff purports to allege as set forth, and otherwise respectfully refers questions of law to the Court.

8. Denies the allegations contained in paragraphs 23, accept avers that in parts of 2010, 2011 and 2012, plaintiff was employed by Bagel on 7th, Inc.

9. Denies the allegations contained in paragraph 24 of the Complaint, accept avers that plaintiff worked as a cook for Bagel on 7th, Inc.

10. Defendants deny the allegations contained in paragraphs 25 through 31, inclusive of the Complaint.

**AS TO A FIRST CLAIM FOR RELIEF
FAIR LABOR STANDARDS ACT**

11. With respect to the allegations contained in paragraph 32 of the Complaint, repeats and realleges each and every response to the allegations set forth in paragraphs 1 through 31, inclusive, of the Complaint with the same force and effect as if fully set forth herein.

12. Denies the allegations contained in 33 and 34 inclusive, of the Complaint, and otherwise respectfully refers questions of law to the Court.

13. Denies the allegations contained in paragraphs 35 and 36, inclusive of the Complaint.

14. Denies the allegations contained in paragraph 37 of the Complaint legal conclusion and otherwise respectfully refers questions of law to the Court.

15. Denies the allegations contained in paragraph 38 of the Complaint.

16. Denies the allegations contained in paragraphs 39 through 43, inclusive of the Complaint and otherwise respectfully refers questions of law to the Court.

**AS TO A SECOND CLAIM FOR RELIEF
NEW YORK LABOR LAW**

17. With respect to the allegations contained in paragraph 44 of the Complaint, repeats and realleges each and every response to the allegations set forth in paragraphs 1 through 43, inclusive, of the Complaint with the same force and effect as if fully set forth herein.

18. Denies the allegations contained in paragraphs 45 through 51, inclusive of the Complaint, and otherwise respectfully refers questions of law to the Court.

AFFIRMATIVE DEFENSES

FIRST DEFENSE

19. The Complaint, in whole or in part states facts sufficient to constitute a cause of causes of action upon which relief can be granted.

SECOND DEFENSE

20. Plaintiff's claims are barred in whole or in part by the applicable statute of limitations.

THIRD DEFENSE

21. Plaintiff's claims are barred in whole or in part by the doctrines of waiver, laches and estoppels.

FOURTH DEFENSE

22. Plaintiff's claims are barred in whole or in part by the doctrine of unclean hands because his alleged bases for seeking legal and/or equitable relief were the result of plaintiff's own actions (or inaction).

FOURTH DEFENSE

23. The complaint in whole or in part fails to state a claim over which this court has subject matter jurisdiction.

RESERVATION OF RIGHT TO ASSERT AFFIRMATIVE DEFENSES

24. Defendants allege they have not completed discovery, and, for that reason, should defendants discover evidence that would support additional affirmative defenses, defendants reserve the right to amend their Answer to assert such defenses.

WHEREFORE, defendants Bagel on 7th Inc. d/b/a/ Bagel Maven Café, James Park, Chu To Yoon, and Sooja Yoon respectfully requests that the Court enter judgment in its favor:

(a) dismissing the Complaint in its entirety;

- (b) awarding defendants their costs incurred in this action, including reasonable attorneys' fees; and
- (e) providing such other and further relief as the Court deems just and proper.

Dated: December 23, 2013

SATTERLEE STEPHENS BURKE & BURKE LLP

By: _____/s/

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